

PAGE 7/9 \* RCVD AT 5/20/2004 2:44:57 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-1/4 \* DNIS:8729306 \* CSID:4408996072 \* DURATION (mm:ss):02:42

Applicant : John C. Nardi  
Serial No. : 09/213,544  
Filed : December 17, 1998  
For : Alkaline Cell Having a Cathode Incorporating Enhanced Graphite

Art Unit: 1745  
Examiner: C. Chaney

a. The art to which the invention pertains or is most nearly connected is that of electrochemical cells, not expanded graphite manufacturing. It is not necessary that one skilled in the art of electrochemical cells know exactly how expanded graphite within the specified kerosene absorption range is made.

b. In order to practice the present invention, one skilled in the art of electrochemical cells can simply go to those skilled in the art of making expanded graphite; given the desired kerosene absorption range, the method for determining kerosene absorption and the information disclosed in the application, expanded graphite manufacturers are capable of making expanded graphite with kerosene absorption in the range of 2.2-3.5 ml/g.

c. The Applicant, after discovering the invention, requested expanded graphite made to specifications that included kerosene absorption in the range of 2.2-3.5 ml/g from three additional expanded graphite manufacturers (besides the manufacturer that provided samples S1-S17 in the application), and all three have provided samples of expanded graphite with kerosene absorption values within the specified range.

3. Examiner's position. The Examiner indicated an understanding that one skilled in the art of electrochemical cells does not necessarily need to know how to make expanded graphite having a kerosene absorption value within the specified range but could request the desired material from an expanded graphite manufacturer. The Examiner stated that there should be something in the file showing that one skilled in the art of electrochemical cells can obtain expanded graphite in that manner. The Examiner indicated that a declaration so showing would be helpful in that regard but could not guarantee that it would be persuasive.

4. Agreement. A reply to the Office action, including a declaration demonstrating the availability of expanded graphite materials from multiple manufacturers, will be

Applicant : John C. Nardi  
Serial No. : 09/213,544  
Filed : December 17, 1998  
For : Alkaline Cell Having a Cathode Incorporating Enhanced Graphite

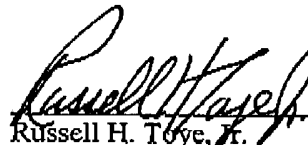
Art Unit: 1745  
Examiner: C. Chaney

submitted. If the Examiner thinks of any other approaches that might be persuasive in traversing the rejection, she will telephone the undersigned.

F. General indication of any other pertinent matters discussed. None.

Respectfully submitted,

Date: 5/20/04

  
\_\_\_\_\_  
Russell H. Toye, Jr.  
Registration No. 43,200  
Eveready Battery Company, Inc.  
25225 Detroit Road  
P.O. Box 450777  
Westlake, OH 44145  
(440) 835-7343